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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,206	08/24/2001	James M. Gill	22725-05869	3572
826	7590	12/01/2005	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			WEBB, JAMISUE A	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/939,206	GILL ET AL.	
	Examiner	Art Unit	
	Jamisue A. Webb	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-83 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46-83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20051006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 55-58 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. These claims each add a different module to the system of Claim 46. Claim 46 however, deals with one particular subsystem of the entire system, which is the subsystem of calculating rates (as shown by Reference numeral 316, of Figure 3). Newly added claims are directed to other subsystems (reference numerals 312, 314, 318 and 319) of the entire system, however the freight rate module does not contain these newly added modules. (System 110, contains 312, 314, 316, 318 and 319, subsystem 316, does not contain 312, 314, 318 and 319). The applicant appears to be mixing subsystems of the claimed invention. Therefore the specification does not support the Freight Rate system comprising the Tarriff module, compliance module, logging module and packaging module, and the addition of these claims in the form of dependent claims, dependent from the Freight Rate Module, is considered to be new matter, and lacks written description in the original specification.

Claim Objections

3. Claims 55-58 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The preamble of the independent claim is a system for determining freight charge, the newly added claims fail to further limit the claim of determining a freight charge, due to the fact that the newly added claims are not directed to determining a freight charge, they are directed to difference processes of the entire system, and not related to determining a freight charge, therefore they fail to further limit the objective of the independent claim, which is determining a freight charge.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 46-50, 52-54, 59-65, 67-76 and 77-81 are rejected under 35 U.S.C. 102(b) as being anticipated by Kulik (5,661,653).

2. With respect to Claims 46, 60 and 72: Kulik discloses the use of a rate sheet input module (25) for accepting rate sheet information (see Figure 2), a custom rates processor (31) which functions as a rate sheet analyzer module and together with a rates manager functions also a rule

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generator (25 and 31, with corresponding detailed descriptions in Columns 5 and 6) and that interfaces with a template storage module (33).

3. With respect to Claims 47, 61, and 73: Kulik discloses some examples of the rate tables, which the examiner considers to be spreadsheet format (see columns 7 and 8).

4. With respect to Claims 49, 63, and 75: Kulik discloses the user interfacing with the system to define custom rate information (Column 6, lines 21-29).

5. With respect to Claims 50, 52, 65, 67, 76, and 78: Kulik discloses the user can define such things as class, and weight, in a template for determining the rate (column 6, lines 20-40, Tables 1-3). The examiner considers this to be a keyword, that signifies the type of data (i.e. class or weight).

6. With respect to Claims 54, 69, 80 and 81: See reference numerals 21 and 23.

7. With respect to Claim 70: Kulik discloses the use of multiple templates, See Figure 2.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 53, 68, and 79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulik.

8. With respect to Claims 10, 25 and 40: Kulik discloses the claimed invention except for the template storage module being remote from the rate sheet analyzer module. It would have

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been obvious to one having ordinary skill in the art at the time the invention was made to have to template storage module be remote from the rate sheet analyzer module, since it has been held that the location of parts, whether it be local or remote, involves only routine skill in the art.

9. Claims 48, 62, and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulik in view of Mattioli, Jr. et al. (6,286,009).

10. With respect to Claims 48, 62 and 74: Kulik, as disclosed above for Claim 46, discloses the use of customized rate tables by class, but fails to disclose the rate tables including zones. It is old and well known in the art that rate calculations for shipping, include such parameters as zone (for example international shipping is always higher than shipping within the United States. Mattioli shows that the zone is commonly included in a rate calculation (column 3, lines 32-52). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have the rate calculation and rate tables of Kulik, include the zone, as disclosed by Mattioli, as specified in claim 48.

11. Claims 59, 71, 82 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulik in view of Schwartz et al. (6,462,286).

12. Kulik, as disclosed above for Claim 46, discloses the claimed invention, but fails to disclose the use of an accessorial charge module and where the rates are calculate responsive to the accessorial charge. Schwartz discloses the use of a rate calculation module that has an accessorial charge module (or a button that associate an accessorial charge with the rate) that calculate the rate for added features such as next day air, second day air or insurance, and even

has a special charges button (See Figures 13, 19, 20 and 25, and Column 13, lines 17-58, Column 16, lines 12-52). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kulik, to include the accessorial charge feature/module, of Schwartz, in order to offer a shipping/freight customer special services such as insurance, with rates associated with them for various carriers. (See Schwartz, Column 2 and 16)

7. Claims 51, 64, 66 and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulik in view of Danford-Klein et al. (6,061,667).

8. Kulik discloses the use of templates which are used to analyze rate table, but fails to disclose the system being used for multiple carriers, and where each template is specific for the carrier. Danford-Klein discloses the use of a rating module, which calculates rates for multiple carriers, using carrier rules, and analyzing rate tables (See abstract, Figures 6A and 8, Column 2, lines 23-44, and Column 3, lines 31-42). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kulik to be capable of being used for multiple carriers, and where the rate sheet is specific to the carrier, in order to increase performance of calculating rates for multiple carriers, and to provide choices to customer for shipping a parcel and determining the least expensive carrier for the parcel. (See Danford-Klein, Columns 2, 3 and 6)

Response to Arguments

9. Applicant's arguments filed 9/14/06 have been fully considered but they are not persuasive.

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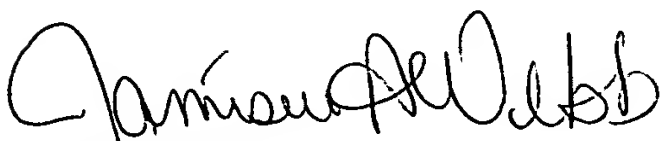
10. With respect to applicant's argument that Kulik is used for only one carrier and not multiple carriers: Whereas Kulik is silent as to whether it can be used for multiple carriers, the claims are broad enough to encompass a system with only one carrier. It is not until dependent claim 51 does it state the templates are for each carrier. The rejection has not been updated to cover the new claim limitation, see above.

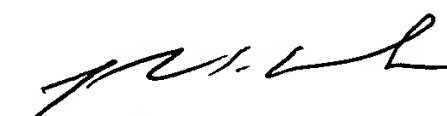
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (571) 272-6811. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jamisue Webb


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